United Nations CERD/C/TKM/CO/8-11/Add.1

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
8 February 2018
English
Original: Russian
English, French, Russian and Spanish only

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined eighth to eleventh periodic reports of Turkmenistan

Addendum

Information received from Turkmenistan on follow-up to the concluding observations*

[Date received: 29 December 2017]

* The present document is being issued without formal editing.

Reply to the concluding observations of the Committee on the Elimination of Racial Discrimination on the eighth to eleventh periodic reports of Turkmenistan on the International Convention on the Elimination of All Forms of Racial Discrimination

In accordance with paragraph 34 of the concluding observations, we are hereby submitting information on the implementation of the recommendations contained in paragraphs 9, 11 and 13

Paragraph 9

1. Under the Constitution, Turkmenistan guarantees equal civil and human rights and freedoms and equality for all before the law and the courts irrespective of ethnic background, skin colour, sex, origin, property, official status, place of residence, language, religious affiliation, political beliefs or other circumstances. The State thus guarantees all persons' equality before the law and the courts, irrespective of any such circumstances and in accordance with international conventions and other instruments to which Turkmenistan is a party. No such circumstances may serve as grounds for discrimination against citizens or other persons.

2. Article 177 of the country's Criminal Code criminalizes deliberate acts intended to inflame social, national, ethnic, racial or religious hatred or enmity or to demean any ethnic group, as well as propaganda attributing superior or inferior status to citizens on the grounds of their religious affiliation or their social, national, ethnic or racial background.

3. The national parliament, taking into consideration the recommendations made by the Committee on the Elimination of Racial Discrimination, is currently studying international experience and the practices elaborated in the most developed countries in order to analyse the possibility of improving the national law to bring it into line with the International Convention on the Elimination of All Forms of Racial Discrimination. Article 4 of the Convention obliges States parties to criminalize all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof.

Paragraph 11

4. In Turkmenistan, civil and human rights and freedoms are recognized in accordance with universally recognized standards of international law and are guaranteed by the Constitution and the laws of the country. Work is constantly being done to improve the country's legislation in accordance with universally recognized standards of international law. In 2016, a new version of the Constitution was adopted. It establishes that the human being is the most valuable asset of society and the State. The State is accountable to every citizen. It makes provision for the free development of citizens' personality and protects their life, honour, dignity, liberty, personal inviolability and natural and inalienable rights.

5. In order to ensure that the State protects civil and human rights and freedoms and that they are observed and respected by the State authorities, local authorities and their officials, the institution of the Commissioner for Human Rights (Ombudsperson) has for the first time been introduced into the Constitution.

6. On 23 November 2016 the parliament of Turkmenistan adopted the Ombudsperson Act, which establishes the rights, duties, guiding principles and authority of the Ombudsperson and safeguards in respect of the Ombudsperson's activities. Under the Act, the parliament elects the Ombudsperson from among the three candidates proposed by the President of Turkmenistan by means of a secret ballot, by a simple majority.

7. On 20 March 2017, the parliament held a multicandidate election for the position of Ombudsperson. The Act establishes a rule according to which the election or discontinuation of the mandate of the Ombudsperson is to be reported in the media in Turkmenistan. The Ombudsperson's activities are open and transparent and are covered by the media.

8. The Ombudsperson's independence is guaranteed under the Act. Both the Ombudsperson and the Ombudsperson's deputy have personal immunity. The Ombudsperson acts independently and does not answer to any State bodies or officials. The decisions of the Ombudsperson express a legal position free from political bias and consistent with the Constitution, laws and international treaties of Turkmenistan and with universally accepted standards of international human rights law.

9. Article 18 of the Act outlines the mandate of the Ombudsperson, according to which the Ombudsperson:

(a) Has the right to visit, freely and without prior notification, any State bodies, local government bodies, enterprises, institutions or organizations, irrespective of the form in which they are legally constituted or their form of ownership, as well as correctional and other specialized institutions, pretrial detention centres and detention facilities of the armed forces of Turkmenistan and of other forces and military institutions. and conducts inspections of their operations, either independently or jointly with competent State bodies, officials or civil servants;

(b) Requests and receives from officials of State bodies, local government bodies, enterprises, institutions or organizations, irrespective of the form in which they are legally constituted or their form of ownership, required documentation, case files and other information and clarifications thereof;

(c) Instructs the competent government authorities and academic institutions to conduct expert studies on issues that arise; and

(d) Submits proposals to the competent State bodies or officials for the initiation of disciplinary or administrative proceedings or of criminal cases against officials who have violated human rights and freedoms.

10. The Ombudsperson is also entitled to exercise other powers under the Act and under other national laws and regulations.

11. Under the law, the Ombudsperson submits an annual report to the President concerning the activities of the Ombudsperson's office and on the human rights situation in the country and presents the report to the national parliament. The annual report receives media coverage in Turkmenistan.

12. The Ombudsperson's activities are complementary to existing State protections of civil and human rights and freedoms. They do not impinge upon the competence of other State bodies that protect civil and human rights and freedoms in accordance with the Constitution and other national legal enactments.

13. The scope of this Act extends to any relations, in the realization of civil and human rights and freedoms, between citizens of Turkmenistan regardless of their whereabouts, foreigners and stateless persons in Turkmenistan, and State bodies, local government bodies and their officials.

Paragraph 13

14. A new version of the Constitution was approved on 14 September 2016 with the aims of improving the country's social and political structure; establishing a reliable constitutional and legal basis for reforms to complete the transition to a market economy; accelerating and expanding social and economic changes; furthering the democratization of the country's society and government structure; and improving the work of State bodies.

15. Article 4 of the Constitution establishes that the human being is the most valuable asset of society and the State. The main aims of State bodies consist in protecting, supporting and serving people.

16. The State is accountable to every citizen. It makes provision for the free development of the personality of citizens and protects their life, honour, dignity, liberty, personal inviolability and natural and inalienable rights.

17. Article 5 establishes that Turkmenistan is a State that ensures social protection for all.

18. Article 25 states that civil and human rights and freedoms are recognized in Turkmenistan in accordance with universally accepted standards of international law and are guaranteed by the current Constitution and the laws of the country.

19. In accordance with article 28, Turkmenistan guarantees equal civil and human rights and freedoms and equality before the law and the courts irrespective of ethnic background, skin colour, sex, origin, property, official status, place of residence, language, religious affiliation, political beliefs or other circumstances.

20. Men and women in Turkmenistan have equal rights and freedoms and equal opportunities to exercise them.

21. Article 29 sets out that any violation of equality of rights on grounds of sex is punishable by law.

22. Under article 41 of the Constitution, all persons have the right independently to determine their own religious preference, to practise any religion alone or in association with others, to practise no religion at all, to express and disseminate beliefs related to religious preference and to participate in the performance of religious ceremonies.

23. On 26 March 2016 a new Freedom of Religion and Religious Organizations Act was adopted. The Act provides that Turkmenistan, as a democratic and secular State governed by the rule of law and guaranteeing freedom of religion and belief, ensures the equality of all persons irrespective of their religious beliefs, recognizes the historical role of Islam in the development of the culture and spiritual life of the people, respects other religions and recognizes the importance of interfaith harmony, religious tolerance and respect for citizens' religious beliefs.

24. The main aims of the Act, set out in article 3, are to provide for the right of all to freedom of conscience and freedom of belief, social justice, equality and the protection of their rights and lawful interests irrespective of their religious beliefs or affiliation, and to freedom of association in religious organizations.

25. The registry of religious organizations lists 130 organizations, including:

- 106 Islamic organizations;
- 13 Orthodox organizations; and
- 11 organizations of other denominations.

26. Since the adoption of the Freedom of Religion and Religious Organizations Act, four religious organizations, all of which are Islamic, have been registered.

27. An application for the registration of one organization, Imam Qasim, is currently being checked to ensure that it is in compliance with the country's legislation.

28. On 20 March 2017, article 4 (1) (1) of the Education Act was amended to read: "Citizens are guaranteed access to education, irrespective of ethnic background, skin colour, sex, origin, property, official status, place of residence, language, religious affiliation, political beliefs or other circumstances, as well as age and health status."

29. In accordance with the Youth Policy Act of 29 August 2013, as amended on 20 March 2017, one of the principles of the State's youth policy is the equality of young persons irrespective of ethnic background, skin colour, sex, origin, property, official status, place of residence, language, religious affiliation, political beliefs or other circumstances.

30. The Refugees Act of 3 June 2017 sets out the grounds and procedures for recognizing refugees in the country and for the provision of subsidiary and temporary protection in Turkmenistan. It establishes the legal status of persons who have been granted

refugee status or subsidiary or temporary protection in the country and establishes legal, economic and social safeguards for the protection of their rights.

31. In accordance with article 10 of the Act, refugee status is given to persons who, owing to a well-founded fear of being persecuted in their countries of citizenship for reasons of race, sex, religion, citizenship, membership of a particular social group or political opinion, are in Turkmenistan, cannot avail themselves of the protection of their countries or are unwilling to do so owing to such fear, or to those who, not having a nationality and being outside their former countries of habitual residence owing to such events, are unable or unwilling to return there owing to such fears.